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MEDTRONIC, INC. 710 MEDTRONIC PARKWAY NE MINNEAPOLIS, MN 55432-9924			SMITH, RUTH S	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/673,778
Filing Date: September 29, 2003
Appellant(s): ZEIJLEMAKER, VOLKERT A.

Michael J. Ostrom
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 29, 2010 appealing from the Office action mailed February 16, 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1,3-5,7-12,15,17-21,23-33,39-45

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

WITHDRAWN REJECTIONS

The following grounds of rejection made in the final rejection are not presented for review on appeal because they have been withdrawn by the examiner. The rejection

Art Unit: 3737

of claims 1,3-5,7-12,15,17-21,23-33,39-45 under 35 USC 103 as unpatentable over Foster et al in view of Burnes et al or Ferek-Petric.

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,925,328	FOSTER et al	8-2005
7,024,249	WEISNER et al	4-2006

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3-5, 7-12,15,17-21,23-33,39-45 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Foster et al (6,925,328) in view of Weisner et al (7,024,249). Foster et al disclose an IMD in combination with MRI, whereby some of the components of the IMD are disabled during an MRI scanning session. While Foster et al is silent with respect to the specific components of the circuitry of the IMD, the use of an amplifier is an inherent part of its circuitry and the specific components which are disabled during an MRI scanning session would have been an obvious design choice in view of the lack of any showing of criticality or unexpected results. The IMD can include an implantable pacemaker. The MRI sends out signals that are detected by the IMD (see for example, figure 5) and the signals are evaluated to determine whether or not to disable portions of the IMD. The circuitry of figure 5 includes means for activating a trigger signal. The trigger signal causes the IMD to be deactivated. Column 11 in Foster et al disclose that

Art Unit: 3737

the trigger signals precede triggering of the activation of the Rf coils of the MRI scanner. MRI inherently includes application of gradient magnetic fields. Foster et al fails to disclose the use of wireless telemetry to send control signals to the IMD. The use of wireless control signals is a well known expedient in the art as shown for example in Weisner et al. Weisner et al disclose the use of control signals to control implantable devices through wireless telemetry. It would have been obvious to one skilled in the art to have modified Foster et al such that the control signals used to indicate the activation of the MRI pulse sequence are sent using wireless telemetry. Such a modification merely involves the substitution of one known means of signal transmission for another. The modification of Foster et al to include wireless control would include having the control signals come from the MRI system controller. The MRI controller would include a "programmer device" as set forth in claim 4. With regard to claims 5, 7-8, Foster et al disclose timing of the IMD with the MRI system. With regard to claims 9,10, Foster et al disclose that the components are disabled for a time period and then are re-enabled following that time period. A signal received from the MRI system would inherently define "blanking" of components of the MRI system. Foster et al disclose the use of a counter which triggers a re-set function to re-enable the components of the IMD after a predetermined period of time. The inventive concept disclosed by Foster et al is to ensure that the IMD doesn't operate during the MRI scanning session. In order to ensure that the blanking is activated during the EM bursts and taking into consideration possible system delays, it would have been obvious to one skilled in the art to have slightly enlarged the time period for blanking to ensure proper results.

(10) Response to Argument

In response to the Appellant's arguments that if the trigger voltage is a control signal then the IMD of Foster doesn't blank components of the IMD responsive to the control signal, it is respectfully submitted that the appellant's interpretation of the claim language is not understood. The trigger voltage is used to deactivate the IMD. The trigger voltage causes the parallel resonant circuit to be formed which functions as an open switch at resonant frequencies of the circuit. This is considered to provide a means for blanking the IMD in response to a control signal because the IMD is eventually deactivated as a result of the control signal.

With respect to the Appellant's arguments directed to claims 31-33,39,40, it is respectfully submitted that the modified programmer of Foster would provide a signal used to obtain the MR signals which would be the first signal and a control signal to blank components of the IMD which would be the second signal.

With respect to the Appellant's arguments directed to claims 42-44 and 45, it is respectfully submitted that in order to ensure that the blanking is activated during the EM bursts and taking into consideration possible system delays, it would have been obvious to one skilled in the art to have slightly enlarged the time period for blanking to ensure proper results. The Appellant fails to provide any evidence to show that it would be impossible to activate the parallel circuit to blank the IMD prior to the actual delivery of the EM burst to the patient. It should also be noted that given inherent delays provided by system/circuit components, it appears that given the circuitry provided by Foster, the blanking would occur prior to actual application of the signals to the patient.

Art Unit: 3737

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Ruth S. Smith/

Primary Examiner, Art Unit 3737

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TC 3700 TQAS